



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

#10  
10F3

In re application of: Henry C. Yuen

Serial No.: 09/470,871

Group Art Unit: 2174

Filed: December 23, 1999

Examiner: Le V. Nguyen

Title: VIRTUAL WORLD INTERNET WEB SITE USING COMMON AND USER-SPECIFIC METRICS

**APPELLANT'S BRIEF UNDER 37 CFR §1.192**

Mail Stop Appeal Brief  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

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Dear Sir:

**I. Real Party in Interest**

The real party and interest in this case is Henry C. Yuen, inventor and Appellant.

**II. Related Appeals and Interferences**

There are no appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**III. Status of Claims**

The present application was filed with 10 claims. Claim 7 was canceled in February 2003. Accordingly, claims 1-6 and 8-10 remain pending, and all are under appeal.

**IV. Status of Amendments Filed Subsequent  
Final Rejection**

No after-final amendments have been filed.

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**V. Concise Summary of the Invention**

This invention is directed to techniques which make surfing global computer networks, such as the Internet World Wide Web, more satisfying and/or pleasurable to users. Broadly, the invention simulates a "Virtual World" which graphically and functionally restores a user's sense of proximity, or distance, while surfing on the Web (Specification, page 2, lines 11-14). In meeting this objective, a visitor to this Virtual World is presented with the ability to traverse a two- or three-dimensional geographic terrain (Specification, page 2, lines 14-16). The visitor's icon is moved along the graphic display in the direction of various destinations representing by appropriate graphic designations. Subsequent pages are cached in the preferred embodiment so that probable new destinations are rapidly displayed, eliminating the annoying delay often associated with the choice of a subsequent page of a web site (Specification, page 2, line 16 to page 3, line 2).

Metrics, including Common Metrics and Customized Metrics, are used to enhance user interactions. A Common Metric is when the geographic terrain on which the various visitors are located is common to all, so that one person can approach the other person by reducing the distance between the two (Specification, page 3, lines 3-6). In contrast, Customized Metrics, based upon user profiles or interaction histories, are attached to a person, indicating how their "view" of the Virtual World should be constructed (Specification, page 3, lines 6-8).

The concepts of "profiling," "metrics," "caching," and the use of graphic entry portal may be used independently, or in a wide variety of combinations to provide an idealized living environment for Web surfers, thereby optimizing their Internet experience (Specification, page 3, lines 9-11). In the preferred embodiments, the rules are arranged in a graduated fashion, so as to be non-threatening to novices yet, with increasing sophistication, satisfying to users or dwellers (Specification, page 3, lines 11-13).

In addition to dedicated Web sites, the invention is applicable to portals or front ends of web sites wherein, for example, an initial or early screen provides a user or visitor with a variety of choices, each connected with one or more additional screens or Web site pages (Specification, page 3, lines 14-16). Regardless of implementation, the invention improves a user's experience during visiting a Web site in several ways, including e-commerce sites wherein each visitor is be assigned an icon that can be moved between destinations graphically represented on the site display at a visually perceptible rate,

using virtual currency to purchase goods or services (Specification, page 3, lines 17-20).

## **VI. Concise Statement of Issues Presented For Review**

1. Are claims 1-4 and 8 unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 6,346,956 to Matsuda in view of U.S. Patent No. 5,434,927 to Brady et al.?
2. Are claims 5-6 unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 6,346,956 to Matsuda in view of U.S. Patent No. 5,434,927 to Brady et al., and further in view of U.S. Patent No. 6,396,509 to Cheng?
3. Is claim 9 unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 6,346,956 to Matsuda in view of U.S. Patent No. 5,434,927 to Brady et al., and further in view of U.S. Patent No. 6,219,045 to Leahy et al.?
4. Is claim 10 unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 6,346,956 to Matsuda in view of U.S. Patent No. 5,434,927 to Brady et al., and further in view of U.S. Patent No. 5,696,892 to Redman et al.?

## **VII. Grouping of Claims for Each Ground of Rejection Which Appellant Contends**

Appellant believes the following groups of claims represent patentably distinct inventions which should be given independent consideration on appeal:

Group I: Claims 1-6 and 8, wherein claims 2-6 and 8 stand or fall with claim 1;

Group II: Claim 9; and

Group III: Claim 10.

## **VIII. Argument**

A. Group I – Claims 1-4 and 8, wherein claims 2-4 and 8 stand or fall with claim 1.

Claims 1 stands rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,346,956 to Matsuda in view of U.S. Patent No. 5,434,927 to Brady et al. Appellant submits that this group of claims now includes additional limitations neither taught nor suggested by the combination of the Matsuda/Brady

combination. In particular, independent claim 1 now includes the further limitations of predicting the next location where a visitor might traverse and caching information to provide a more immediate presentation of subsequent locations to the user while traveling through the virtual world.

Before two or more references may be combined to negate patentability of a claimed invention, at least one of the references must teach or suggest the benefits to be obtained by the combination.

In *Ashland Oil Inc. v. Delta Resins & Refractories Inc. et al.*, 776 F.2d 281, 297; 227 USPQ 657, 667, the court concluded:

Obviousness, . . . , cannot be established by combining the teachings of the prior art to produce the claimed invention unless there was some teaching, suggestion, or incentive in this prior art which would have made such a combination appropriate.

The court cited *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577 in support of its ruling.

Appellant submits that without a requisite suggestion or teaching in the above-cited references, a *prima facie* for a rejection of obviousness cannot be sustained. As such, Appellant respectfully requests that this be withdrawn as a basis for rejection.

Appellant further traverses the rejection on the grounds that Brady et al. is non-analogous art and should not be used as a reference to reject the present application.

In determining whether prior art is analogous two criteria are set forth as measures to be used in the evaluation of the prior art reference. First, it must be determined "whether the art is from the same field of endeavor..." and second "if the reference within the inventor's field of endeavor whether the reference is still reasonably pertinent to the particular problem with which the inventor is involved." *In re Dominski*, 796 F.2d 436, 422.

Appellant's field of endeavor relates to providing a method for presenting users of the World Wide Web with more lifelike metrics. The Brady et al. reference relates generally to systems used for traffic detection, monitoring, management, and vehicle classification and tracking. Particularly, the invention is directed to a method and apparatus for classifying and tracking objects and images provided by real-time video from machine vision. Clearly one who seeks to provide a more realistic experience to a user surfing the web cannot be considered to practice in the same field of endeavor as one who seeks to provide an improved method for traffic detection and management. However, Appellant

realizes that although the endeavors of the respective inventors are separate and distinct that the Brady et al. reference may still be determined to be analogous if the reasonably pertinent to the particular problem with which the inventor is involved.

Appellant's invention addresses problems associated with surfing the web, particularly those problems relative to a user's unexercised sense of proximity or distance while surfing on the web. Additionally, Appellant's method addresses the problem of time delay associated with a user's web surfing experience due to the time it takes to connect to and display subsequent web pages.

The Brady et al. reference addresses problems associated with maintaining and improving traffic detection, management and safety. The Brady reference seeks to overcome the disadvantages associated with the conventional point detection devices used in the collection of data related to traffic incidents, such as accidents and congestion. Appellant submits that the problems that the Brady et al. reference seeks to address are unrelated to the problems being addressed by Appellant's invention. As such, the differences in the fields of endeavor and the particular problem with which the inventors are involved preclude a finding of obviousness in view of the Brady et al. reference because it is not analogous art. Accordingly, Appellant respectfully submits that this be withdrawn as a basis for rejection.

Group II: Claim 9

Claim 9 stands rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,346,956 to Matsuda in view of U.S. Patent No. 5,434,927 to Brady et al., and further in view of U.S. Patent No. 6,219,045 to Leahy et al. It is well-settled that, "obviousness, ... cannot be established by combining the teachings of the prior art to produce the claimed invention unless there is some teaching, suggestion, or incentive [to make] such a combination appropriate." *Ashland Oil*, 227 USPQ at 667. The Matsuda and Leahy et al. references combined do not teach or suggest Appellant's invention. As such, Appellant submits that amended claim 1 as well as the associated dependent claims, including claim 9, embodies patentable subject matter. Accordingly, Appellant respectfully requests that this be withdrawn as a basis for rejection.

Group III: Claim 10

Claim 10 stands rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,346,956 to Matsuda in

view of U.S. Patent No. 5,434,927 to Brady et al., and further in view of U.S. Patent No. 5,696,892 to Redman et al. The Matsuda and Redman et al. references combined do not teach or suggest Appellant's invention. As such, Appellant submits that claim 10 embodies patentable subject matter. Accordingly, Appellant respectfully requests that this be withdrawn as a basis for rejection.

### Conclusion

In conclusion, for the arguments of record and the reasons set forth above, all pending claims of the subject application continue to be in condition for allowance and Appellant seeks the Board's concurrence at this time.

Date: Oct. 8, 2003

Respectfully submitted,

By: 

John G. Posa  
Reg. No. 34,424  
Gifford, Krass, Groh, Sprinkle,  
Anderson & Citkowski, P.C.  
280 N. Old Woodward, Suite 400  
Birmingham, MI 48009  
(734) 913-9300

**APPENDIX A**  
**CLAIMS ON APPEAL**

1. A method of user interaction on the world-wide web, comprising the steps of:  
defining a virtual world using at least one web site, the virtual world including a virtual geographic terrain with a set of virtual locations;  
displaying the virtual geographic terrain and virtual locations to a plurality of visitors to the virtual world, each being interconnected to the web site through the world-wide web;  
identifying each visitor to the virtual world with a symbol superimposed on the geographic terrain;  
providing a facility whereby visitors may traverse virtual geographic terrain and visit virtual locations by moving the symbols;  
predicting a next location where a visitor might traverse within the virtual world based upon previous symbol movements;  
caching information to provide a more immediate presentation of the next location; and  
establishing a common metric with respect to each visitor, enabling one visitor to interact with another visitor in accordance with the metric.
2. The method of claim 1, further including the step of defining a spatial perspective within the virtual world using one or more vanishing points.
3. The method of claim 2, wherein different visitors see the virtual world from a different perspective.
4. The method of claim 1, wherein the virtual locations include one or more virtual commercial enterprises offering goods or services for purchase by the visitors.
5. The method of claim 1, further including the step of profiling visitors to determine their preferences.

6. The method of claim 5, further including the step of using the visitor preferences to determine the level of interaction between two visitors.

8. The method of claim 1, wherein the interaction between two visitors is textual.

9. The method of claim 1, wherein the interaction between two visitors is audible.

10. The method of claim 1, wherein the symbol for a visitor includes a real-life graphical representation of that visitor